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ABSTRACT

Legal, professional, and historical issues are examined in the report on minority group representation in special education in New Jersey. The historical and legal background traces the controversy over the use of IQ tests with minority children and notes court rulings citing overrepresentation of minority students in classes for the mildly retarded. Results of a statewide survey of school districts report the ethnic composition of their pupils in 17 classification (handicapping) conditions and five ethnic categories. Data indicate a disporportionate representation of Blacks and Hispanics in the educable mentally retarded category. Psychometric, genetic, socioeconomic status, and conceptual considerations are explored. Among 23 conclusions listed are that the courts have sustained the notion that disproportionate impact is sufficient to prove bias in practice, thus indicating that a disproportionate number of Blacks in EMR classes is racially discriminatory: that the eventual resolution of the IQ issue may best be accomplished through political efforts: and that the concept of mild mental retardation, as applied throughout the country, is arbitrary and invalid. (CL)

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THE STATUS OF MINORITY GROUP REPRESENTATION IN SPECIAL EDUCATION PROGRAMS IN THE STATE OF NEW JERSEY: A SUMMARY REPORT

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Preface

Minority group representation in programs of special education in the schools of this nation has been a subject of discussion and concern for many years. More recently, the issue has gained greater significance as the impact of new laws, court decisions, and research efforts has been realized. New Jersey is a state with a significant minority population and consequently is affected by issues that have such implications for social policy.

In response to the increased concern regarding minority representation in classes for special education students and, most particularly, classes for the educable mentally retarded in the State of New Jersey, Fred G. Burke, Commissioner of Education, charged the Branch of Special Education and Pupil Personnel Services of the Department to research this issue. More specifically, a group from the Branch was asked to prepare a report which objectively analyzed the relevant issues, gathered data and reported on the status of New Jersey with respect to minority representation in special education classes. This document is a summary of the report prepared by Branch staff.

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CHAPTER I

The Question

Can we validly assess the intellectual functioning of youngsters from cultural and linguistic backgrounds that are different from the Anglo core culture? The answer to this critical question remains unresolved. From an academic perspective, the question challenges the cultural anthropologist, the educational researcher, and the psychologist; from an educator's view, however, the dilemma is very real and current. Two fairly recent events make this point clearer. In August of 1977, the Federal government passed regulations that provided for the free and appropriate education of all handicapped children (Federal Register, 1977). Contained within those regulations were criteria for making determinations about a child's eligibility for special education. It was apparent that the Congress was concerned about minority group representation in such classes because the final regulations contained Section 121a. 530(b) -- "Protection in Evaluation Procedures." That section cautioned those who were to evaluate children for such special education programs as follows:

> Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory. (Federal Register, 1977)

The second event of relevance here is the decision handed down by Federal District Court Judge Robert F. Peckham in the case of Larry P. v. Wilson Riles, Superintendent of Public Instruction for the State of California, (Larry P. v. Riles, 1979). In this decision, Judge Peckham found that there was a disproportionate overrepresentation of Black children in classes for the educable mentally retarded (EMR) in the San Francisco Unified School District and in the State of California. Further, he found that the individually administered test of intelligence, or IQ test, was the major vehicle by which these Black children entered such classes. Consequently, such tests were judged as discriminatory in their impact upon Black children and, henceforth, the State of California was enjoined from further use of such tests.

It would be easy for New Jersey to turn its head, continue as it has and perhaps await a court suit; or, in a seemingly more proactive manner, blindly implement the remedies set forth in the Larry P. decision. However, there is a more appropriate response available. Such an approach would be to examine in detail the professional literature relevant to the question at hand as well as the reasoning behind the court's decision in the California case. This reasoning should then be cast against the current special education system in New Jersey and then, if necessary, careful planning could go into designing and implementing corrective actions.

CHAPTER II

An Historical and Legal Perspective

Clearly the issues under consideration are not simplistic from either a scientific or a socio-political perspective. It is likely that most generations self-consciously consider themselves in the throes of social turmoil and at the edge of some socio-cultural leap that will set the life style for generations to come. Ours is no exception and perhaps we could take comfort if that were true with respect to the question of the assessment of intelligence of racial minorities. History, at times the grim conveyor of the truth, denies us our illusions. Lewis Terman, in his book Measurement of Intelligence, published in 1916 (Kamin, 1974, p.6), presented his first revision of the Binet Intelligence Scale, and pointed out to the psychological community that mild retardation was "very, very common among Spanish-Indian and Mexican families of the southwest and also among negroes" (p. 91). He went on to suggest that, ultimately, science would attribute the differential performance of racial groups on IQ tests to genetic endowment. Terman was so confident of his preliminary conclusions that he did not wait for the scientific community to exhaustively examine the question before he made his recommendations with respect to social policy. After all, was this not an opportunity for the emerging science of psychology to contribute to the advancement of civilization through its support of the eugenics movement as well as to demonstrate its value to society? With respect to schooling, his recommendations set the direction for special education for most of the 20th century.

Terman went on to recommend that "Children of this group (Spanish-Indian, Mexican, Negro) should be segregated in special classes ... They cannot master abstractions, but they can often be made efficient workers... There is no possibility at present of convincing society that they should not be allowed to reproduce, although from a eugenic point of view they constitute a grave problem because of their unusually prolific breeding" (pp. 91-92).

Frightening words when one considers that they were written by an eminent scientist; a man who had some considerable influence in the immigration and educational policies of his day. Yet, it would be fantasy to assume that theories which suggest IQ as fixed and genetically predetermined are no longer seriously considered nor defended by representatives of the scientific community. As recently as 1969, significant controversy erupted when the noted psychologist, Arthur Jensen (1969), made the following statement in the prestigious Harvard Educational Review:

> "So all we are left with are various lines of evidence, no one of which is definitive alone, but which, viewed altogether, make it not an unreasonable hypothesis that genetic factors are strongly implicated in the average Negro-white intelligence difference" (p.82).

In the same article, Jensen argued that the compensatory education programs of the '60s had failed in their attempt to improve the performance of impoverished children on IQ and achievement tests because the results of such tests were predetermined by genetic factors.

Representatives of minority groups, recognizing the racist overtones of such pronouncements, have turned with regularity to the courts for redress. Such a strategy, of course, began with the Brown decision (Brown v. Board of Education, 1954). More germane to the issue at hand was the Hobson v. Hansen case (1967) involving the use of standardized tests with minority group children for class assignment in the tracking system employed by the Washington, D.C. school district. In this important case, Judge V. Skelley Wright ruled that:

> The evidence shows that the method by which track assignments are made depends essentially on standardized aptitude tests which, although given on a system-wide basis, are completely inappropriate for use with a large segment of the student body. Because tests are standardized primarily and are relevant to a white middle class group of students, they produce inaccurate and misleading test scores when given to lower class Negro students ... (p. 514).

Recognizing the extent of the controversy and dissension within the scientific community concerning the use of IQ tests with minority children, the courts have still felt obliged to address the documented grievances of minority children. While the Hobson v. Hansen decision concerned group testing practices, the focus of subsequent court cases shifted attention to individual IQ tests. One year later, 1968, a class action suit was filed (Diana v. California State Board of Education) in California on behalf of linguistically different children who had been placed in programs for the mildly retarded on the basis of standardized individually administered intelligence tests. The plaintiffs contended that children of Hispanic cultural and linguistic backgrounds were overrepresented in classes for the mentally retarded in the schools of that state. They further argued that such overrepresentation was due to racial and cultural bias as a result of having children evaluated with individual tests of intelligence in English when their native language was other than English.

The tests themselves were attacked on the following points:

1. the heavy reliance upon verbal skills;
2. the middle class view reflected by the item content; and
3. the linguistic structure of the instruments.

Ultimately, overrepresentation of minority students in classes for the mildly retarded was used to document the presence of bias (Reschly, 1979). The extent of overrepresentation was established by comparing the rate of mild retardation among the white population with the Hispanic rate. This same procedure was used in the Larry P. decision. The Diana suit resulted in a consent decree (1969) which set broad guidelines for the assessment of children of linguistically different backgrounds and ordered all such children who were enrolled in special education classes to be reevaluated in their native language. In the future, all assessment procedures would have to take into account the child's native language and socio-cultural background. As a result, several thousand children whose native language was other than English were "decertified" and returned to regular class.

According to a follow-up study by Yashida, MacMillan and Myers (1976), the decision did not fulfill the expectations of the prophets of doom who predicted that the children would fail miserably and disrupt regular education programming. While the children continued to underachieve, the adjustment of the vast majority to regular classes could be characterized as acceptable.

The Diana decision marked the way for a similar suit to be taken on behalf of Black students. The Larry P. case was filed in November, 1971 and a final ruling was not handed down until October of 1979. During the interim, the Federal government undertook certain actions that were to have significant impact upon the issues under consideration in that case.

To sketch briefly these events, shortly before the filing of the Larry P. case, and clearly influenced by the Diana decision, the Office of Civil Rights on July 10, 1970 issued its policy concerning the assignment of students of national origin minority groups to classes for the mentally retarded. This memorandum sent to state and local superintendents of schools, under a letter of transmittal signed by J. Stanley Pottinger, Director of the Office of Civil Rights, advised educational agencies that:

> School districts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English Language skills, (p. 147).

The Rehabilitation Act containing the well-known "Section 504" was passed by the Congress in 1973. This section contains the principle that standards and procedures designed for the evaluation and placement of children in programs for the educationally handicapped must draw upon a multi-sourced data base that includes consideration of the child's sociocultural background and adaptive behavior.

While not at government initiative, it is important to mention that the Lau v. Nichols decision was handed down by the United States Supreme Court in the following year, 1974. It was this decision that provided the mandate for educational instruction in the native language of the child. The relationship between this and the previously cited Diana case is obvious.

By 1975, the legal and statutory direction became clear. Congress in that year enacted P.L. 94-142, the Education of All Handicapped Act. As was mentioned earlier, this act contained specific sections regarding the evaluation of children who were from linguistically and culturally different groups. While the regulations necessary to implement this were two years in the writing, the intent of Congress was clear.

Perhaps anticipating some confusion regarding those provisions relating to the assessment of culturally and linguistically different children, the Office of Civil Rights issued another memorandum in August of 1975. In it is contained the reminder that it would be a violation of statute on the part of local and state educational officials if they did not adopt procedures for the identification, classification and placement of handicapped children that were nondiscriminatory in their <u>impact</u> (emphasis added) on children from cultural minorities (Oakland and Laosa, 1977).

The latest scene to this unfolding drama occurred on October 16, 1979 when Judge Peckham handed down his decision. In it the court found for the plaintiffs on both constitutional and statutory grounds; the judge obviously was satisfied that both intent and effect had been proven. The case itself was initiated on behalf of Black children attending the San Francisco Unified School District who had been placed in EMR classes as a result of their performance on an individually administered IQ test. In his decree, Judge Peckham found IQ tests to be culturally biased; defendants were enjoined from using any test of intelligence not specifically approved by the court for use with Black children for the purposes of placement in classes for the EMR. The judge accepted the contention of the plaintiffs that overrepresentation of Blacks in classes for the EMR was evidence of bias. While many definitions of test bias were offered the court by authorities in the field, Judge Peckham chose to evaluate the intelligence tests in terms of their disproportionate impact upon Black children. At the time the suit was entered, Blacks constituted 28.5 percent of the San Francisco school system; yet 66% of the EMR students in the school system were Black. The court, in its remedies, ordered the school districts of California to reevaluate all of their Black children classified as EMR. The California State Department of Education was ordered to conduct ongoing monitoring of the rates of mild retardation among Blacks and white and to report districts to the Court if their rate of Black EMR enrollment exceeded the district's white rate by more than one standard deviation.

From Hobson v. Hansen through Larry P., the courts have struggled with the issue of bias in assessment of intelligence. While an appeal of Larry P. may be underway, the effects of such a landmark decision have been felt across the nation. Clearly, the question of how to determine if a test is biased is no longer solely academic. The courts have seemingly accepted impact, i.e., disproportionate representation of minorities in stigmatizing special education programs, as evidence of bias in intellectual assessment.

CHAPTER III

Minority Groups and Special Education in New Jersey: Results of the Statewide Survey

The data presented in this chapter were collected through a statewide survey conducted during the 1979-80 school year. Survey forms were sent to all school districts in New Jersey who were asked to report the ethnic composition of their population of pupils classified in one of 17 classification categories.

For purposes of the survey, the following five ethnic categories were employed: 1) American Indian; 2) Asian or Pacific Islander; 3) Black; 4) White; and 5) Hispanic. Table I presents the number of children with respect to ethnicity as well as the incidence rate for each group. An incidence rate reflects the proportion of children within an ethnic group exhibiting a particular handicap. For example line 5 (following page) indicates that there are 152 deaf Black children registered within the public schools. The incidence rate of .07% appears below the number 152 and indicates that approximately 7 out of every 10,000 Black children are deaf.

TABLE I

Number and Incidence Rate for New Jersey
Public School Children by Handicap Classification and Ethnic Group

		American Indian	Pacific Islander	Black	White	Hispanic	Total	% of Handicapped
1	Educable M. Retarded	4	48	4394	4404	1360	10,210	7.4
	Incidence Rate	.38	.27	1.91	.47	1.42		
2	Trainable M. Retard.	2	21	847	2213	323	3,406	2.5
	Incidence Rate	.19	.12	.37	.23	.34		
3	Elig. for Day Trng.	1	7	207	469	111	795	0.6
	Incidence Rate	.10	.04	.09	.05	.12		
4	Hard of Hearing	0	8	155	648	120	931	0.7
	Incidence Rate	0	.05	.07	.07	.13		
5	Deaf	1	7	152	518	105	783	0.6
	Incidence Rate	.10	.04	.07	.05	.11		
6	Deaf-Blind	0	0	17	13	14	44	0.03
	Incidence Rate	0	0	.007	.001	.01		
7	Blind	2	4	51	59	21	137	0.1
	Incidence Rate	.19	.02	.02	.01	.02		
8	Partially Sighted	0	2	63	159	19	243	0.2
	Incidence Rate	0	.01	.03	.02	.02		
9	Communication	2	35	373	2324	144	2,878	2.1
	Incidence Rate	.19	.20	.02	.25	.15		
10	Elig. for Speech Corr.	34	878	9193	39807	4430	54,342	39.5
	Incidence Rate	3.27	4.96	4.00	4.21	4.63		
11	Emotionally Disturbed	8	26	3757	7962	636	12,389	9.0
	Incidence Rate	.77	.15	1.64	.84	.67		
12	Orthopedically H.	0	15	276	700	126	1,117	0.8
	Incidence Rate	0	.08	.12	.07	.13		
13	Neurologically Imp.	8	37	2235	7839	492	10,611	7.7
	Incidence Rate	.77	.21	.97	.83	.51		
14	Perceptually Imp.	80	92	5275	26902	1319	33,668	24.4
	Incidence Rate	7.69	.52	2.30	2.85	1.38		
15	Chronically Ill	0	5	594	624	93	1,316	1.0
	Incidence Rate	0	.03	.26	.07	.10		
16	Multiply Handicap.	6	22	737	2581	141	3,487	2.5
	Incidence Rate	.58	.12	.32	.27	.15		
17	Socially Maladjusted	3	0	440	739	161	1,343	1.0
	Incidence Rate	.29	0	.19	.08	.17		
	TOTAL	151	1,207	28,766	97,961	9,615	137,700	
	% of Handicapped	0.1	0.9	20.9	71.1	7.0	100.0	
	% Handicapped of Ethnic Enrollment	14.5	6.8	12.5	10.4	10.1	10.7	
	All Students % of Enrollment	0.1	1.4	17.8	73.3	7.4	100.0	
	State Enrollment	1040	17,716	229,616	944,624	95,623	1,288,259	

While this chapter will focus primarily on the number of Black, white and Hispanic children classified as EMR, some comments are warranted concerning the other categories reported in Table I. According to Table I, 12.5% of all Black children are classified as handicapped in comparison to 10.4% of the white and 10.1% of the Hispanic. The prevalence of handicapping conditions among the American Indian population (14.5%) exceeds all other populations. However, a comparison of the incidence rates associated with the American Indian population and the incidence rates of the white population indicates that the former are for the most part disproportionately overrepresented in categories such as "perceptually impaired" and "eligible for day training." These categories are not as controversial as EMR but may warrant attention. This is not so for Black children! There are not only proportionately more Black than white children with educational handicaps but they are more often labeled "educable mentally retarded" or "emotionally disturbed." In fact, these two categories of handicapped classification account for most of the disproportion in the data. While this report attempts an analysis of the data, it should be viewed as a preliminary step necessitating a more thoughtful and comprehensive analysis. The major portion of our attention focused upon the category of "educable mentally retarded." Obviously, many more categories require scrutiny.

With respect to the present report, Table II summarizes the data concerning the number of Black, Hispanic and white children labeled EMR. The table also provides an analysis of the student population according to ethnicity. The data clearly indicate that when either the white rate of EMR or the overall state rate is selected as the standard, a disproportionate number of Black and Hispanic children are labeled EMR.

With respect to the Black population, it can be ascertained from Table II (following page) that there are 4 times as many white children as Black (944,624 vs. 229,616) in the public school population of New Jersey; yet, both groups are almost equally represented in the EMR category (4,404 vs. 4,394). More specifically, while Black children account for 17.8% of the public school population, they represent 43% of all the children labeled EMR. If the number of Black children labeled EMR (4,394) is compared with the total enrollment of Black children (229,616) an incidence rate of 1.91% is obtained. The incidence rate for white youngsters, on the other hand, is 0.47%. A comparison of those two rates indicates that the rate of mild retardation among Black children is four times greater than among white children. The dramatic difference between the Black and white incidence rates raises serious questions regarding the overrepresentation of Black children. This is true even if a markedly higher rate of retardation among Blacks is expected because of the risk factors associated with their impoverished environment. We should be cautious in even making such an assertion for a significant proportion of Black children do not come from homes that would be characterized as poor and impoverished.

If for the sake of discussion, it is assumed that Black children have a 50 percent greater incidence rate, with respect to mild retardation, than white children, there is still far less than one chance in a thousand that an objective assessment process could have produced the difference in rates which exists. It is also essential to point out that, while there is disproportionate representation of Blacks in the trainable category (.37% vs. .23%), the difference in rates does not parallel the magnitude of the discrepancy which exists

TABLE II

EMR CLASSIFICATION IN THE PUBLIC SCHOOLS OF NEW JERSEY BY ETHNICITY

	Student Population	% of Student Population	No. of Students Labeled EMR	% of Total EMR Population	Incident Rate by Ethnicity
Black Student Population	229,616	17.8	4,394	43.0	1.91
Hispanic Student Population	95,623	7.4	1,360	13.3	1.42
White Student Population	944,624	73.3	4,404	43.1	0.47
Total Student Populations	1,288,259	98.5	10,210	99.4	0.79

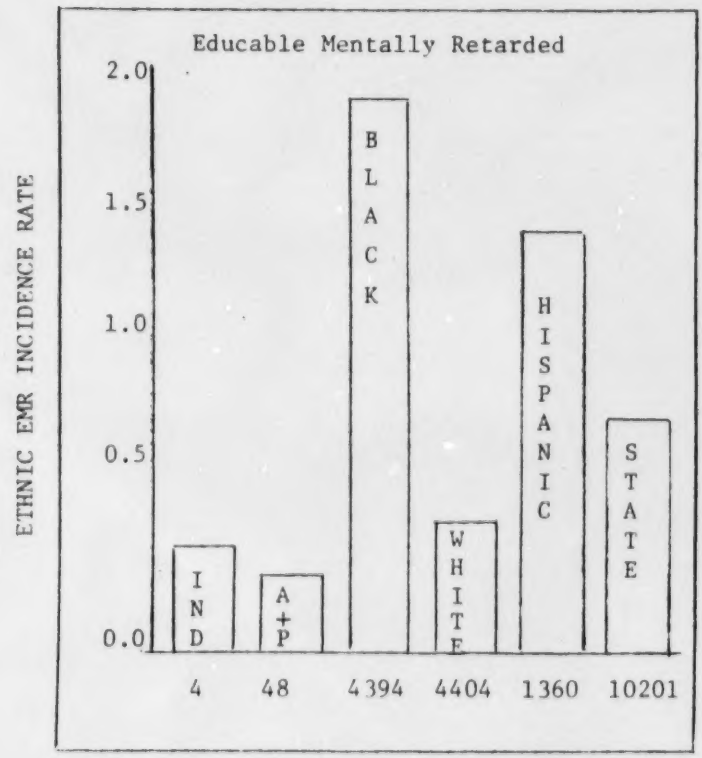
between Blacks and whites in the EMR category. If risk factors did account for the inflated rate among Black children, then the threats to the neural system generated by such risks should also impact at least as much on the trainable population and this is not the case. The difference in the relative number of Black and White children labeled EMR far exceeds the discrepancy associated with the trainable category.

Hispanics are also overrepresented in this category although not as glaringly. From Table II it can be seen that, while Hispanic youngsters are 7.4% of the school population, they are 13.3% of the EMR population. The incidence rate of mild retardation among Hispanics (1.42) is more than 3 times as high as the hite rate. Once again, attempts to explain the difference in the rates on the basis of the "high risk" hypothesis defy the laws of chance. While such factors might, in fact, account for a somewhat inflated rate, they cannot be used to explain the magnitude of the differences which exist.

In summary, perhaps the disproportionate representation of Blacks and Hispanics in the EMR category can best be observed if the incidence rates of the groups are depicted graphically.

Figure I provides just such a representation.

FIGURE I



While time and space do not permit an intensive discussion of the other categories of handicap represented in Table I, mention should be made of the apparent overrepresentatives of Black children in the "emotionally disturbed" and "socially maladjusted" classifications. Further, both Blacks and Hispanics in general appear to have a consistent pattern of higher rates of representation in classification categories that are associated with conditions of health and physical well-being such as "deaf," "blind," "orthopedically handicapped," "neurologically impaired," "chronically ill," and "multiply handicapped." Conversely, whites seem to have a disproportionately higher representation in the classifications of "eligible for speech correction" and "perceptually impaired." A more comprehensive analysis of the data may reveal the reasons behind these ethnic differences. It would appear that the data regarding minority culture children and handicaps associated with health factors, if confirmed, should then be shared with the New Jersey State Department of Health for their consideration and attention

CHAPTER IV

The Scientific and Professional Issues

While the status of IQ testing, EMR classification and culturally different children will continue to occupy the professional community as well as the court dockets of the United States for years to come, it might be helpful to examine, in summary form, the scientific and professional issues that form the basis of debate in the judicial decisions, memoranda and statutes discussed earlier.

Overrepresentation of cultural minority children in classes for the EMR was established by both the Diana and Larry P. cases. In question was the appropriateness of such special class placements for these culturally different children. Since the primary criterion for classification of a youngster as EMR has historically and currently been the score on an individually administered test of intelligence, it is upon this assessment practice that most of the scientific and legal debate has focused. In light of the state statistics presented in the preceding chapter, such a discussion is clearly relevant to the situation in New Jersey.

The arguments surrounding this complex issue can be divided into five general topical areas:

1. a discussion of the psychometric issues associated with the IQ instrument itself, such as questions of test validity;
2. an examination of the relative contributions of genetic and environmental factors that account for the IQ scores;
3. a presentation of the evidence that associates low IQ performance with poverty and the life conditions that attach to such a state of being;
4. a discussion of the nature of a culture, the point to which minorities in this country are representative of a different culture, and therefore, not able to be accurately measured by Anglo standards; and

5. finally, a brief discussion of why a reconsideration of the concept of mild mental retardation must be undertaken before we can end this dilemma.

Psychometric Considerations

The basic question with respect to the IQ test is whether the often documented 15 point mean IQ discrepancy (Jensen, 1969; Shuey, 1966) found to exist between Black and White children is a reflection of true differences in learning potential or is an artifact of the test. The intelligence test was originally designed to identify children who were unable to profit from regular instruction, and such tests are, to a large degree, still used for that purpose. Ultimately, their fairness must be evaluated with respect to their ability to identify those children who will require an educational program which, by definition, will be different than that of their peers. At the outset it should be made clear that most psychologists and educators would agree with the statement of Professor Robert Thorndike made during his testimony at the Larry P. case. He said, "Everybody would acknowledge we would have no conceivable way of directly measuring native ability" (Larry P. v. Riles, 1979, pp. 37-38). This point echoed that of a report prepared for the American Psychological Association's Board of Scientific Affairs who, after studying this question wrote, "All ability tests (whether called intelligence, aptitude, or achievement tests) measure current performance. There are no measures of innate capacity" (Cleary, Humphreys, Kendrick and Wesman, 1975).

Intelligence, then, is an imaginary mechanism which psychologists have devised to explain purposeful behavior. As postulated, it is an attribute which cannot be measured directly, but must be inferred. IQ tests rest on a series of logical assumptions which have been clearly described by Mercer (1977) as follows:

a. If two individuals have had the same opportunity to learn the materials, skills, and behaviors covered in a test;
b. if they have been similarly rewarded for learning those materials, skills, and behaviors, so were motivated to learn/
c. if they have had equal experience in taking tests;
d. if they are equally free of anxiety or emotional problems, which could interfere with learning;
e. if they are equally free of physical disabilities, sensory or motor handicaps, which could interfere with learning;

then --

if one individual does significantly better on a test than the other, we can make the inference that the person doing better has more learning potential;

if

all the above are not equal, no inference can be made about relative potential (p. 85).

When current intelligence tests are used with Black, Hispanic, and/or poor children, these assumptions are often not met. This has been documented by an exhaustive study in Riverside, California designed to locate and describe all the mentally retarded members of the community. Mercer (1971) concluded from this study that:

> the IQ tests now being used by psychologists are, to a large extent, Anglocentric. They tend to measure the extent to which an individual's background is similar to that of the modal cultural configuration of American society. Because a significant amount of the variance in IQ test scores is related to socio-cultural characteristics, we concluded that socio-cultural factors must be taken into account in interpreting the meaning of any individual score (pp. 29-30).

According to Mercer then, the average differences in performance between white and certain identifiable groups of minority children do not reflect real differences in "intelligence or learning potential" but exist primarily because these groups of children have not had the same educational, social and cultural experiences.

Proponents of the use of intelligence tests in public schools have argued that for all their limitations IQ tests are, at least, moderately good predictors of school success. There are two ways of viewing this issue. If we accept as the criterion for school achievement a child's score on a standardized test of achievement, then, in fact, as Reschly (1980) points out, correlations between IQ and achievement are typically in the range of 0.5 to 0.7. More importantly, no systematic differences between racial/ethnic groups emerge from these data. Such correlations would seemingly provide some support for the validity of IQ tests as predictors of later school achievement.

However, Mercer, in her testimony before Judge Peckham in the Larry P. case, argued that such test items as are typically found in standardized achievement tests are essentially of the same nature as those in IQ tests. Consequently, as logic would lead you, items from such a common pool would, of course, "autocorrelate" (Larry P. v. Riles, 1979, pp. 70-71).

Another way of viewing the predictive validity issue would be to look at the correlation between IQ scores and teacher grades. Interpretation of the results of this research is more difficult. Only three such studies were found (Reschly, 1980). Two of the studies (Goldman and Hartig, 1976; and Mercer, 1979) produced low correlations between IQ test results and teacher ratings. When comparing correlations across ethnic groups of Black, white and Hispanic children, teacher ratings tended to differentially favor white children. In the third study (Reschly & Reschly, 1979), the correlations for different ethnic groups were again low with almost no differential across ethnic groups emerging.

The support for the predictive validity contention of those who advocate the continued use of the IQ test is far less than convincing. It could be argued that, by relying so heavily on IQ tests to select children for various educational programs, including programs for the gifted and talented, educators

have significantly limited the pool of talent they tap within the schools. It must be remembered that IQ tests consist of a relatively limited sample of what are considered "intelligent" behaviors. Many important skills are treated lightly or are not represented at all in these tests (Kaufman, 1979).

Another regularly raised argument with respect to the psychometric issues surrounding IQ testing has to do with the population upon which the test is normed. It is a widely held principle of measurement that a test is not valid for a subgroup that has a particularly unique characteristic which may be relevant to the purpose(s) of the test unless that subgroup was appropriately represented in the test's standardization population. Thus, it would be important to have both sexes or the major ethnic groups represented in a standardization population for an aptitude test while eye color may not be a significant factor upon which to focus. In the past, IQ tests have not included culturally different children in their standardization population. While more recent editions have sampled minority populations in developing norms for these instruments, the limited number of individuals included had little impact in making the IQ less biased with respect to minority children.

As Mercer has recently pointed out (1979), including non-Anglo children in the most recent revision of the WISC-R* did not solve the problem of the cultural specificity of the test. It remains primarily Anglocentric in content. She also indicated that the inclusion of a limited number of minority children in the WISC-R standardization sample increased the mean performance of Anglo children when their performance was compared to that of the mean performance of minority youngsters.

Bias inherent in the content of test items is another point to be discussed. Reschly (1980) prefers to refer to the degree that an item is "culturally loaded." Such loadings can then be distributed along a continuum from almost none to items that are highly culturally specific. While this topic has been the source of much discussion (particularly the "fight" item on the WISC-R Comprehension Subtest), most of this debate has concerned itself with subjective opinion rather than empirical analysis. Only one published study was found that specifically examines content bias in items of IQ tests for schoolage children. While the study itself found no bias in these test items, the issue needs further research before reaching a final judgment.

Two final topics should be raised that are pertinent to this discussion. As pointed out by Oakland and Matuszek (Oakland, 1977), their review of the literature "... reveals no general tendency for Black children to score higher or lower when tested by an Anglo or Black examiner on individually administered and group tests..." (p. 10).

Lastly, it is at times asserted that despite the apparent bias that may result from IQ test administration, competent professional psychologists would interpret the performance of a minority culture child on such a test with proper consideration given to the child's socio-economic status and cultural background. Further, this line of argument asserts that such intelligence test data would be analyzed in combination with a variety of other significant pieces of information, not the least of which would be the mandated assessment of adaptive behavior, only then would judgments be made with respect to a child's intellectual and educational status. This is a sound argument, one to which all psychologists would readily subscribe.

* Wechsler Intelligence Scale for Children - Revised

An investigation relative to this point was undertaken by California's Department of Education and was cited by Judge Peckham in his decision. This document, identified as the "Uslan Report," signifying the name of the principal investigator, reports the results of a "survey of the 26 districts with the highest disproportion of Black enrollment in EMR classes" (Larry P. v. Riles, 1979, p. 91). In reviewing the files of the children in these classes, the investigators found "... little or no evidence of adaptive behavior information despite the clear legal importance of that information. The Uslan Report also revealed inadequacies in developmental information" (Larry P. v. Riles, 1979, p. 91). It was the IQ test score upon which decisions were being made as to whether a child was to be placed in a class for the educable mentally retarded.

While not as comprehensive an investigation as was undertaken in California, data pertinent to this issue does exist for New Jersey. In preparation for this document, a review was made of the reports of all comprehensive evaluations of local school districts performed by the Branch of Special Education and Pupil Personnel Services of the New Jersey Department of Education for the past two years. The branch, in carrying out such Level II evaluations, uses as an instrument A Guide for Evaluation of Special Education Programs and Related Pupil Personnel Services (New Jersey Department of Education, undated). Contained within this document is a series of items that assesses whether a school district considers a variety of data in making classification decisions. Reports of these Level II evaluations were studied to ascertain the extent to which these local school districts considered a child's adaptive behavior in making classification judgments.

In summary, 17 Level II evaluations were conducted during the last two school years (1977-79 and 1979-80). Of this number, 15 are relevant to this discussion. In the evaluation reports of nine of these 15 school districts, mention was made of the failure of the child study team(s), more specifically the school psychologist(s), to assess adequately adaptive behavior. Possibly some explanation to account for the finding that nearly two-thirds of the districts evaluated were in non-compliance with regulations could be offered, e.g. bias sampling, lack of instrumentation, the regulation to assess adaptive behavior has only recently been clarified. The important point to be noted, however, is that the potential for misclassification of significant numbers of children quite possibly exists in New Jersey.

Genetic Considerations

The genetic endowment hypothesis is provocative and controversial to say the least. It has received renewed support primarily as a result of the work of Arthur Jensen (1969) previously noted in this report and others (Herrnstein, 1971; Shockley, 1972). Essentially, this hereditary argument purports that differences in intelligence can be explained by genetic and biological factors, in that certain minorities have poor genetic endowment for intellectual and cognitive functioning. Judge Robert Peckham summarizes the underlying principle of the genetic hypothesis rather succinctly in the Larry P. case when he states:

> "The genetic argument, stated bluntly, is that natural selection has resulted in Black persons having a 'gene pool' that dooms them as a group to less intelligence" (Larry P. v. Riles, 1979, p. 42).

Such a position, while discussed at the Larry P. trial, was not an argument that the defendants used. In fact, Superintendent of Education for the State of California, Wilson Riles, made one of the strongest public statements against the genetic position when he said, "The whole concept is reprehensible to me. No, I do not agree" (Larry P. v. Riles, 1979, p. 42).

Refutation of the genetic hypothesis rests on more solidly scientific grounds. If we are to accept the genetic hypothesis, then we would expect, based upon the 15 IQ point differential, that not only would Blacks be significantly overrepresented in classes for the educable mentally retarded but the same would hold true for the trainable mentally retarded as well. Such is not the case. After reviewing the data with respect to incidence rates in California, Judge Peckham wrote, "The disproportionate EMR enrollment of Black children is not duplicated in classes for the so-called trainable mentally retarded children" (Larry P. v. Riles, 1979, p. 24).

As shown in the preceding chapter, in which the statistics regarding New Jersey's racial incidence rates were discussed, the situation in this state parallels that of California. While no meaningful disproportion exists between Blacks and whites in the classification of "trainable mentally retarded," such a disproportion does exist for the "educable mentally retarded" classification. If, as is the commonly held scientific and statistical assumption, it is true that intelligence is a normally distributed attribute then such a disproportion in rate could not occur at only a single point along the distribution curve.

One of the major points of vulnerability of the genetic hypothesis has to do with the issue of the malleability of intelligence as a function of environmental intervention. If intelligence is an attribute that is primarily determined by hereditary endowment then, as Jensen (1969) has pointed out, while environmental influences can have some impact, the overwhelming extent of influence will be genetic. Stated simply, a good environment cannot overcome the influence of poor genes.

Research evidence from two lines of investigation have seriously called this point into question. In the first, researchers (Scarr-Salapatek and Weinberg, 1975; Scarr and Weinberg, 1976) studied the impact of white middle class advantaged family life on 130 Black and interracial children who were adopted by these advantaged families. The IQs of these adopted children were significantly above those of their natural parents. While not reaching the level of the biological offsprings of the adopting parents, the IQ levels of these Black children on the average exceeded the mean of the White population. The importance of these results is not only in the enhanced IQ performance of these adopted children but, also, in the fact that the earlier the child was adopted, all other things being equal, the more closely did the adopted child's IQ approximate that of the families' biological offsprings. It is important to note that these children also approximated their families in the typical middle-class pattern of successful academic achievement. The authors concluded:

> Because the social variables accounted for a substantial portion of the IQ variance among Black/Interracial adoptees, it is likely that IQ performance is malleable within the range of existing environments. If all Black

> children had environments such as these provided by the adoptive families in this study, we would predict that their IQ scores would be 10-20 points higher than the scores are under current rearing conditions (Scarr and Weinberg, 1976, p. 738).

The second line of research effort involves early intervention through infant stimulation and family intervention programs. The best known of these studies is commonly referred to as the Milwaukee Project. The results of this study strike right to the heart of the genetic argument.

Briefly, the investigators (Heber and Garber, 1975) based their research and intervention design upon the notion that mothers of low socioeconomic status (SES) with IQs below 80 were more likely to rear children who would be categorized as retarded than would low SES mothers with IQs of above 80. The researchers conducted a major epidemiological study of a part of the inner city of Milwaukee which contained the highest number of educable mentally retarded school children. It was as a result of this study that the "at risk" criterion of low maternal intelligence was hypothesized as the critical characteristic causing mental deficiency in offsprings.

Forty Black families comprising mothers of newborn who met the criteria of being of low SES status, living in the designated inner city area and having an IQ of below 75 on the WAIS (Wechsler Adult Intelligence Scale) were used for this research project. The 40 families were split into control and experimental groups with, of course, the experimental families being the recipients of intensive intervention, training and stimulation. Both groups were the subject of continuous study for a ten year period. This major longitudinal study has been the object of intense interest within the professional community since its inception. The latest results of this research effort have lent support to those who have argued in favor of the impact environmental factors have upon intellectual development and functioning.

While the studies' findings are wide ranging both with respect to the changes that occurred in the children and mothers (Heber, 1976), of major interest to us is the program's impact upon the intellectual functioning of the children. It should be pointed out that the project's actual intervention with these families ceased once they had entered school but the children were followed for three years as they continued through their educational experience.

Major areas of interest with respect to these children's functioning focused upon language development, cognitive functioning and measured IQ. From 18 months of age, differences on these factors began to emerge between the experimental and control groups and by 24 months such differences were reaching statistical significance. Of greatest importance is the fact that IQ differences were in the range of 20 points between the experimental and control groups and such differences were consistent up to the 72 month mark, the point at which the children entered a full-time schooling program.

It is well-known from the reviews of Head Start research (Coleman, 1966) that gains in IQ achieved by low SES Blacks often disappear once the children leave the intervention programs and enter the public schools

of this country. Therefore, for purposes of the Milwaukee Project, it was essential that the researchers followed these children into their formal school years.

At the point of school entry (72 months), the mean IQ for the experimental group was 120.7 while for the controls it was 87.2 (Heber, 1976). At the 96 month mark (the second year of follow-up), the average IQ of the experimental group had predictably dropped but maintained within the average range of intellectual functioning (the mean is approximately 105) while the mean IQ for the control group hovered about the 80 IQ mark. Further, "one-third of the control group tested below (WISC) IQ 75. By contrast, the lowest IQ scores for the experimental children at 96 months are two at 88" (Heber, 1976, p. 27). Incomplete data at the 108 month point, i.e., one year later and the third year of follow-up, indicate little significant alteration in the relative status of these two groups. While this research effort does have some flaws and is not free of its critics (Page, 1975), the import of these findings cannot be overlooked.

Additional theoretical and research support for the early intervention position has recently been provided through the work of Burton White of Harvard (White, 1975). While others, such as Jencks (1972) and Kagan (1973), feel that impact on intellectual development can occur at later years just as well as in the first ones, none deny the critical importance of these earliest months.

To conclude this section, we will return to one of our earliest points. Much of the support for the genetic position resulted from the previously mentioned work of Arthur Jensen (1969). A careful reading of Jensen will underline the heavy reliance he places upon the research efforts of the British psychologist, Cyril Burt. Professor Burt is best known for his twin studies through which he was able to compare the IQs of dyzygotic and monozygotic twins reared together and apart. By so doing, Burt was able to make approximations of the proportion of intelligence that can be attributed to heredity and that proportion that can be accounted for by environment. Jensen's argument that the IQ differences between whites and Blacks may be due to genetic factors is highly dependent upon this work of Burt.

Much of Professor Burt's research went unquestioned until a thorough review of this and other data relating to intelligence testing was undertaken by Professor Leon Kamin, of Princeton University. Professor Kamin's results are almost astounding. In carefully reviewing Burt's body of research and examining in detail his data collection and analysis methods, Kamin raises serious charges of political bias in interpretation of the data, of questionable methodology and lack of validity in instrumentation. Professor Kamin concludes his review of Burt's work none too kindly. He writes:

> The conclusion seems not to require further documentation, which exists in abundance. The absence of procedural description in Burt's reports vitiates their scientific utility. The frequent arithmetical inconsistencies and mutually contradictory descriptions cast doubt upon the entire body of his later work. The marvelous consistency of his data supporting the hereditarian position often taxes credibility; and, on analysis, the data are found to contain implausible effects consistent with an effort

> to prove the hereditarian case. The conclusion cannot be avoided: the numbers left behind by Professor Burt are simply not worthy of our current scientific attention (Kamin, 1974, p. 47).

While Dr. Jensen continues to defend the work of Professor Burt (Jensen, 1980), we should, at least, be cautious in making any assumptions as to the conclusiveness of research purporting to establish the degree to which intelligence is parcelled out between environmental and hereditarian factors.

Socioeconomic Status Considerations and Factors of Cultural Difference

The explanation most often subscribed to by the educational and psychological communities is that low SES and the attendant deprivations in intellectual stimulation, medical care, nutrition, etc., account for the lowered academic achievement and greater incidence of mild retardation in Blacks. The professional literature contains much to support the heavy impact poverty has upon school performance. Such beliefs were again offered in the testimony of Superintendent Riles in the Larry P. trial, who said:

> "(T)he point I'm trying to make is that if they are poor and disadvantaged, it doesn't matter whether they are minority or majority. If they are poor and disadvantaged, yes, they are going to do less well on the test" (Larry P. v. Riles, 1979, p. 43).

Clearly, he believed IQ tests were biased against the poor -- Black and white alike -- not because of inferior genes or divergent cultures, but because of their inferior home and neighborhood environments.

Proponents of the SES explanation focus on the physical and nutritional deficits that might interfere with normal neurological and physiological development. However, it has been pointed out that, although the conditions associated with low SES such as poor medical care, poor nutrition, greater exposure to toxic substances, infections, and disease, etc., are important, they are inadequate to explain the higher proportion of Blacks and certain other cultural minorities in programs for the mild mentally retarded. Evidence presented at the Larry P. trial speaks directly to these points. Judge Peckham writes:

> Dr. Herbert Grossman, of U.C.L.A., testified that poverty puts individuals at "greater risk" for all kinds of diseases, including the disease of mild mental retardation ... He was unable, however, to specify how this risk operated, nor was he able to detail the extent of its asserted effect on intelligence as measured by IQ scores... Further, plaintiff's expert from U.C.L.A., Dr. Gloria Powell, explained convincingly that recent studies, including the Collaborative Research Study of the National Institute of Neurological Diseases and Blindness have demonstrated the insufficiency of this "at risk" explanation of low IQ scores...(Larry P. v. Riles, 1979, p. 44).

Dr. Powell pointed out that the kind of severe malnutrition that would impact upon intellectual development does not exist in this country.

From the early studies (Skeels and Dye, 1939; Skeels, 1966), showing the impact of mildly retarded surrogate teenage mothers on the IQs of seemingly hopelessly retarded infants in institutions, to the studies of adopted children and the IQ correlation differences between the child's adopted and natural parents (Skodak and Skeels, 1949; Skeels and Harms, 1948), to the studies reviewed by Haskins, Finklestein and Stedman (1978) regarding infant stimulation programs, the impact of environment upon a child's cognitive and social functioning is well established. A poorer quality of home environment is usually associated with lower SES levels. Heber (1968) has demonstrated that, race notwithstanding, the lower the SES the greater the likelihood of a child being labeled by the schools as EMR.

Low SES as an explanation to account fully for the higher mild retardation incidence rate in minorities is somewhat in jeopardy, however, when we consider that low SES has a differential impact. That is, even controlling for the factors of poverty, we still find more cultural minorities labeled as EMR in our schools. This differential effect has been well documented and frequently discussed (Jensen, 1969; Lesser, Fifer and Clark, 1965; Mercer, 1973, 1979; Reschly, in press; Shuey, 1966).

The research of Kaufman and Doppelt (1976) and Mercer (1973) has demonstrated that SES factors account for only a portion of the variance associated with IQ scores at any SES level. Considering the material presented above with respect to the genetic issues and particularly the research of Scarr and Weinberg (1976) and Heber (1976), we might begin to question the validity of the concept of mild mental retardation for most children. Might not the higher White rate that exists at the lowest SES level be accounted for by another factor? Might that factor be related to the differences between the Anglo-core culture and its values and those of a culture of poverty?

It has often been suggested that the differences between racial groups on standardized instruments can, to a significant extent, be accounted for by differences in culture. While the research and intervention attempts that characterized the 1960s tended to focus on the deficiencies in the environments of the poor minorities, more recent work has begun to identify the texture of these culturally different groups. The most articulate representation of this position has been made by Cole and Bruner (1971) who differentiate between the concepts of "culturally deprived" and "culturally different" as they relate to minority groups. The failure of the majority culture to be sensitive to this important difference and to account for it in assessment practices has been an often stated protestation of articulate minority group spokespersons (Bransford, Baca and Lane, 1973; Parker, undated; Williams, 1974).

Research into the specific components of social and cognitive functioning associated with culturally different children is readily available. Labov (1970) has discussed in detail the richness of Black English while others (Ramirez and Castaneda, 1974) have explored differences in cognitive style between Anglos and Hispanics. Several discussion exist detailing cultural differences in mother-child social interaction patterns (Haskins, Finkelstein and Stedman, 1978; Trotman, 1977) while Henderson (in press) has carefully summarized the research relative to the social psychological variables such

as locus of control, learned helplessness and teacher expectations with respect to minority culture students and their impact upon school achievement. Support for the "culturally different" concept appears to be well demonstrated by this and a more ample body of research literature.

Conceptual Considerations

Educators remind us that in many respects the IQ controversy is a "straw man." They observe that once we are finished deciding whether the IQ score is a valid index of the intellectual ability of a culturally different child, we are still faced with a host of youngsters who have significant educational deficiencies. Few argue with such a proposition.

Special educators are like the proverbial man out on a limb in the midst of sawing it off. What is even worse, even if he does stop sawing, the limb is going to break anyway from his weight.

It is helpful to examine and rethink the concept and classification of "educable mental retardation." The work of Jane Mercer (1973; 1979) is most instructive in this regard. In order to understand Mercer's ideas, two points must be mentioned. Most special educators rely upon the definition of mental retardation developed by the American Association for Mental Deficiency (AAMD). The latest definition is as follows:

> Mental retardation refers to significantly subaverage general intellectual functioning existing concurrent with deficits in adaptive behavior (Grossman, 1977, p. 11).

The New Jersey Administrative Code defines retardation in similar language.

> "Mentally retarded" means possessing an intellectual capacity below the average range of intelligence and having deficits in adaptive behavior ... (N.J.A.C. 6:28-1.2, p. 5).

It should be noted that both definitions emphasize a two dimensional perspective to mental deficiency. The child's deviance from the normal must occur in both the intellectual and social realms. Below average functioning as only one of these dimensions would be insufficient to classify a child as EMR.

The second point to be made is that most children classified by the schools as educable mentally retarded are not viewed as below normal once they leave the school and enter their homes and communities. The retardation of these children is situational as opposed to transituational and the children are often identified as "six hour retardates." Once we go further along the retardation continuum to moderate and severe forms of the condition such is not the case. More significant levels of retardation are usually associated physical symptomatology as well as transituational impairments in adaptive and intellectual functioning. Another important difference is that once the mildly retarded individual permanently leaves school he is far less likely to be identified by community agencies as retarded than would the moderate or severely retarded person.

Mercer differentiates between the "Comprehensively Retarded" and the "Quasi-Retarded." The following table is borrowed from her work and represents her conceptualization of the situation (Mercer, 1979, p. 3):

FOUR-FOLD TYPOLOGY OF MENTAL RETARDATION

Adaptive Behavior	Intellectual Functioning (IQ)	
	Subnormal	Normal
Subnormal	Comprehensively Retarded	Behaviorally Maladjusted
Normal	Quasi-Retarded	Normal

If we accept Mercer's formulation, particularly as the concept of adaptive behavior is applied transituationally, then perhaps the group of children that fall with the "Quasi-Retarded" cell should be reconsidered from the perspective of a different set of constructs. That these children are experiencing educational difficulties may be true. However, the validity of the label of retardation seems to be seriously in question given the evidence reviewed in this paper.

Lastly, it seems essential also to consider the causative factors that may exist within the realm of the general education system that could contribute to this situation. Such a consideration is beyond the scope of this document, but our efforts in preparation of this report lead us to feel that the pursuit of this question would not be without merit.

CHAPTER V

CONCLUSIONS

Admittedly, it is not a simple task to assimilate and integrate the body of information just reviewed. In an effort to focus the readers' attention upon what we view as the major findings of this report, the following conclusions are offered. While we recognize that many additional conclusions may appear warranted, we have purposely limited ourselves to those that are of immediate concern to the New Jersey State Department of Education.

1. The question of our ability to measure accurately the intelligence of culturally different children has existed for many years and will continue to be debated for years to come. Irrespective of this debate, the body of information that exists clearly points in a direction towards which the Department of Education should take substantive and definitive action.

2. Minority groups feel that they are discriminated against by the special education systems in this country and are continually turning to the courts for redress.

3. The courts have been reluctant to involve themselves in these difficult issues but when they have found it necessary to act, the results for the most part have reaffirmed the protection of minority group rights.

4. The courts, in the main, have sustained the notion that disproportionate impact is sufficient to prove bias in practice. Thus a disproportionate number of Blacks in EMR classes is construed as racial discrimination.

5. Court cases surrounding issues of EMR classification and placement and IQ testing of racial and ethnic minorities will continue for years to come.

6. The eventual resolution of the IQ issue may best be accomplished through political efforts. The courts and public agencies such as this department <u>are</u> the appropriate bodies to make the policy decisions that are effective in the elimination of biasing practices.

7. Within the State of New Jersey, there exists a disproportion between white and racial/ethnic minorities in the classification of children as handicapped.

8. This disproportion is primarily found in the "EMR" and "emotionally disturbed" classifications with Hispanics and particularly Blacks having a higher representation.

9. Many individual school districts evidence excessive rates of disproportion between the various ethnic/racial categories and require further investigation by this department. When viewing these individual school districts, and even making allowances for unique local conditions, substantial racial disproportions in the EMR classification exist.

10. The body of data collected for this report has not been fully analyzed but appears to point to other classification categories that exhibit racial/ethnic disproportions.

11. It is the individually administered IQ test that serves as the focal point for discussion regarding racial/ethnic minorities overrepresentation in the EMR classification.

12. IQ tests measure current performance levels <u>not</u> innate potential.

13. While IQ tests are moderately good predictors of academic achievement, when the criterion is achievement test results, they are poor predictors of achievement when the standard is teacher ratings.

14. Standardized tests of intelligence are reflective of the Anglo-core culture and are a measure in part of a child's assimilation of that culture. The extent to which a child has not had the experiences, values and behaviors of that culture is the extent to which the test is inappropriate.

Tests of intelligence currently in use are inappropriate for culturally and linguistically different school children in New Jersey.

15. Despite standards of professional practice and regulations to the contrary, there is evidence to suggest that at least some child study teams do not use adaptive behavior data in making classification decisions. Further investigation of this matter is needed to determine the extent of this practice.

16. While genetics undoubtedly play a role in determining intellectual ability, IQ is clearly a malleable trait and the low IQs found in cultural minorities can be raised through appropriate intervention activities that change environmental conditions.

17. Low SES is associated with poor school performance and the increased labeling of children as EMR. If a child is Black or Hispanic and of low SES, the chances of being labeled as EMR are even greater.

18. The impact of poverty alone upon the total environment of culturally different children is not sufficient to account for the disproportionate EMR rates reported.

19. The differential effect of the IQ test for Blacks and Hispanics can only be explained by bias inherent in the test instrument and in the concept of measured intelligence.

20. The concept of mild mental retardation, as applied throughout the school systems of this state and the country, is arbitrary and invalid. Many of these poor and culturally different children are never considered retarded by anyone other than the schools. Because of their appropriate adaptive behavior, the communities in which these children live fail to identify them as mentally deficient; hence their supposed retardation is situational, not comprehensive.

21. Children who are culturally and linguistically different, irrespective of their SES levels, are not validly assessed by our current evaluation model.

22. Review of the research literature, as well as our knowledge of current practices, leads us to question whether, to some extent, the overrepresentation of poor and culturally different children in the EMR category is the result of a general education system that is not equipped to cope with them, a social system that perpetuates poverty and an evaluation and labeling system that necessitates stigmatization before needed services can be provided.

23. The current special education law and regulations are steeped in a model that focuses upon factors of etiology rather than remediation. What is required is a system that recognizes educational needs and views the purposes of the diagnostic process to be the planning of effective intervention strategies.

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